MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE
Tuesday, June 16, 2015 – 2:00 p.m. – Room 445 State Capitol

Members Present:
Sen. Lyle W. Hillyard, Co-Chair
Rep. Dean Sanpei, Co-Chair
Sen. Jerry W. Stevenson, Vice Chair
Rep. Brad L. Dee, Vice Chair
Sen. J. Stuart Adams
Sen. Jim Dabakis
Sen. Gene Davis
Sen. Luz Escamilla
Sen. Peter C. Knudson
Sen. Karen Mayne
President Wayne L. Niederhauser
Sen. Ralph Okerlund
Rep. Patrice M. Arent
Rep. Joel K. Briscoe
Rep. James A. Dunnigan
Rep. Francis D. Gibson
Speaker Gregory H. Hughes
Rep. Brian S. King
Rep. Brad R. Wilson

Members Excused:
Rep. Rebecca Chavez-Houck

Staff Present:
Mr. Jonathan Ball, Legislative Fiscal Analyst
Mr. Steven Allred, Deputy Director
Ms. Greta Rodebush, Legislative Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Hillyard called the meeting to order at 2:57 p.m.

MOTION: Rep. Sanpei moved to adopt the minutes of May 19, 2015. The motion passed unanimously with Sen. Dabakis, Sen. Escamilla, Sen. Stevenson, Rep. Dunnigan, and Speaker Hughes absent for the vote.

2. Follow-up on Required Reports to EAC

Co-Chair Hillyard recalled that in last month's meeting, the committee talked about some of the required reports to Executive Appropriations Committee (EAC) that the Analyst had recommended moving to other committees or deleting. The EAC co-chairs did not take any action at that time but asked committee members to review and share any concerns they might have regarding the Analyst's recommendations prior to the June 16 meeting.

Mr. Allred referenced the Issue Brief, "Required Reports to Executive Appropriations Committee," and explained that in order to maximize the EAC's flexibility and time to hear reports in a timely fashion, the Analyst recommends moving three regular reports and eight contingent reports to other appropriations subcommittees and deleting five expired reporting provisions. Mr. Allred indicated that LFA staff would work with the committee co-chairs to draft legislation to implement these changes.

Mr. Allred reported that he was not aware of any committee concerns.

Co-Chair Hillyard suggested that the committee take action on the recommended changes, but as a precaution, he encouraged the committee to take another look at the listing of required reports, and if needed, he would put this item on next month's agenda.

MOTION: Rep. Sanpei moved to approve the recommendations on pages 1 through 2 of the Issue Brief entitled, "Required Reports to Executive Appropriations Committee" dated May 19, 2015, and direct legislative staff to work with the committee co-chairs to draft the necessary legislation. The motion passed unanimously with Sen. Dabakis, Sen. Escamilla, and Sen. Stevenson absent for the vote.

3. Federal /Non-federal Grants Review

Mr. Evan Curtis, Governor's Office of Planning and Budget (GOMB), presented the "Federal and Non-Federal Grants Report dated June 16, 2015. Mr. Ken Matthews, Budget and Finance Operations Specialist, GOMB, and Mr. Gary Syphus, Fiscal Analyst, LFA, provided assistance.

Under federal grants, there were seven new grants and two reapplications or revisions of existing grants requiring legislative action. The Governor's Office approved seven new federal grants and one continuation of an existing grant.

Under non-federal grants, there were no non-federal grants requiring legislative action. The Governor's Office approved one reapplication of an existing grant.

Following up on last month's request to identify any grants that might incur future state obligations, Mr. Curtis said that none of the grants needing legislative approval would require additional state money if federal funding were to be reduced or eliminated.

Mr. Curtis reported that on June's Federal and Non-Federal Funds Report, no grant needing EAC approval would require additional state money if federal funding were to be reduced or eliminated.

Co-Chair Hillyard inquired about the increased funding for the federal grant, *PPHF 2015 Epidemiology and Laboratory Capacity*. This grant was previously approved for $1,839,700 during the last legislative session. The total federal award is $4,957,904. Mr. Curtis stated that he would follow-up on his request.

President Niederhauser inquired about two federal grants approved by the Governor's Office for the Department of Natural Resources, *Land and Water Conservation Fund – Saint George*, and *Land and Water Conservation Fund – Paradise*. Mr. Curtis explained that these grants were pass through grants.

MOTION: Rep. Sanpei moved to recommend acceptance of the federal grants as outline on page 1 of the handout entitled, "Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" and dated today, June 16, 2015. The motion passed unanimously with Sen. Dabakis, Sen. Escamilla, and Sen. Stevenson absent for the vote.

4. Revenue Update

Dr. Andrea Wilko, Chief Economist, LFA, and Dr. Thomas Young, Senior Economist, LFA, presented the "Revenue Update" for June 2015. The report structure included an overview of the FY 2015 range forecast, tax collections, economic indicators, recent tax changes in Utah and the nation, and collections to date. Dr. Wilko indicated that the final year-end figures will include adjustments for expenditures. According to the report, “Utah continues to lead the nation in economic growth. Employment is rising faster than national estimates, population growth remains strong, and in-migration continues. As the economy continues to expand, Utah’s revenue should remain strong.”

Consensus estimates indicate that combined collections for the General Fund/Education Fund will end FY 2015 with a revenue surplus between $20 million and $180 million above the May 2015 target. The surplus is largely due to stronger than anticipated income tax collections.

The General Fund is expected to end FY 2015 within a range of $40 million below to $20 million above the May EAC targets. Dr. Wilko indicated that consumers appear to be moderating their retail spending as evidenced by a slowing in the rate of growth of retail sales per employee since 2012. She also pointed out that the drop in the price of gasoline last year only marginally impacted consumer spending.

Revenue to the Education Fund is expected to end FY 2015 in the range of $60 to $160 million above May estimates. Factors contributing to the above target growth include strong employment growth, structural changes in the labor force, and strong corporate profits. Dr. Wilko pointed out however, that wage growth has been slower than in prior recoveries/booms, and overall, wage growth is currently close to inflation rates.

President Niederhauser commented on the latest revenue update for income tax and potentially having more ongoing revenue in the Education Fund. He also inquired about the slowing in the growth in sales tax revenues and requested further analysis to determine if this could be attributed to the shrinking in the sales tax base, on-line sales, or cautious consumer spending.

Dr. Young reported that the Transportation Fund is expected to be between $15 million below and $15 million above the May EAC target. A comparison of the Motor Fuel Tax Revenue and the price of oil shows that the drop in the price of gasoline increased consumption. This was the case for Special Fuel Tax Revenue as well. However, consumption may change when the new gas tax increase takes effect under House Bill 362 from the 2015 General Session.

Dr. Young also discussed federal funds and severance taxes. Federal revenue declined for most of 2013, experienced a moderate uptick through most of 2014, and has been relatively flat through most of 2015. Dr. Young anticipates that federal funds may come in around $35 million below target at the end of FY 2015.

As far as severance tax revenues are concerned, Dr. Young attributed most of the deficit in the General Fund to a drop in oil prices and a decrease in production. He also mentioned that metal severance tax has slowed and will come in below target because of the landslide at the Kennecott Copper Mine.

Dr. Young discussed recent tax changes in Utah and in the nation. He reported that other states are on track to reduce taxes for third straight year, whereas Utah increased taxes by about $100 million in FY 2016. Dr. Young stated that we will continue to watch this trend to see how it affects Utah’s competitive position relative to other states.

Finally, Dr. Young stated that the year-to-date figures confirm that GF/EF revenue will end FY 2015 in the range of $20 million to $180 million above the May EAC target.

Pres. Niederhauser inquired about the drop in federal funds of about $300 million to $400 million from 2013 to 2014. Mr. Ball attributed the decrease to spending out of stimulus money for ARRA and EDU jobs, and lower Medicaid costs since the recession.

Sen. Adams commented on the increased growth in income tax and corporate tax revenues.

5. Fiscal Health Check-up

Mr. Ball discussed the budgetary situation across states, including 16 states that are facing budget deficits in a growing economy. He outlined several reasons for the states' deficits. Mr. Ball contended that much of Utah's success has to do with the management of state finances and a state policy environment that is attractive to businesses.

He referred to a chart with a continuum of budgeting tools along a horizontal axis representing the severity or volatility of an economic event measured against a vertical axis representing value at risk. The lowest at risk tool is structural balance, followed by cashflow management, spending reductions, working rainy day funds, operating reserves, revenue enhancement, and budgetary reserves, the highest at risk tool.

Mr. Ball highlighted the Working Rainy Day Funds concept that uses growth in ongoing revenue to pay for roads, buildings, and equipment, in cash, while paying down debt and building debt capacity.

Ms. Clare Tobin Lence, Fiscal Analyst, LFA, demonstrated how the Working Rainy Day Funds are reflected on the Fiscal Health Dashboard (http://le.utah.gov/fiscalhealth) under the Reserves Tab, broken out as Cash Funded Buildings and Cash Funded Roads. Ms. Lence explained that funding for Cash Funded Roads comes from direct General Fund appropriations plus sales tax earmarks for transportation less debt service payments. She also referred to a bar graph which shows the funding history for Cash Funded Roads compared to borrowing (bonding) for the years 2007 to 2015.

Mr. Ball commented that the funding history bar graph indicates that we have a ways to go in getting back to where we were before the last recession both on reducing general obligation bonded indebtedness and in increasing cash financing for infrastructure. Mr. Ball recommended that the State continue to shed debt and use cash to build roads and buildings.

At the request of Rep. Briscoe, Mr. Ball explained the Working Rainy Day Fund chart, which shows actual collections, a linear trend analysis, and trend and cycle for the GF/EF Business Cycle.

President Niederhauser drew attention to a Pew Center study on state rainy day funds and noted how Virginia policy makers determine working rainy day funds. He also stressed how important it is to only enact programs that we can consistently fund.

6. DTS Federal Reimbursement

Ms. Angela Oh, Senior Statistician, LFA, explained that for the past few years, the Department of Technology Services (DTS) and the federal government have been in negotiations regarding DTS overcharging state agencies that receive federal funds. DTS has agreed to reimburse the federal government $5.5 million for the overcharges. The Fiscal Analyst recommends that the reimbursement be paid from DTS' operating revenue at the first of FY 2016 and that DTS seek a supplemental appropriation during the 2016 General Session.

Mr. Mark VanOrden, Executive Director, DTS, and Mr. Dan Frei, Chief Financial Officer, DTS, provided some background information on how the overcharges occurred and what DTS is doing to prevent overcharging in the future. Mr. VanOrden clarified that the Legislature does not appropriate any General Fund money to DTS and that DTS bills agencies for technical services.

Rep. Sanpei asked about the options for paying this money back. Mr. Frei said that DTS could pay the money back and go into the red and then ask the Legislature for a supplemental appropriation. DTS could also cut $5.5 million out of its budget but this could potentially create overcharges.

Rep. Sanpei asked what the deadline was for paying the money back to the federal government. Mr. John Reidhead, Division of Finance, stated that the federal government agreed to give DTS up to a year to pay the money back, given that this would require legislative action.

Co-Chair Hillyard asked if there were any other areas that DTS needed to be concerned with and if the problem had been solved. Mr. VanOrden responded that there were no other areas to be concerned with and that the amount owed had been settled on. Mr. Frei indicated that going forward DTS has been in compliance with federal rules.

Co-Chair Hillyard asked if there is any reason why we should pay it now as opposed to January. Mr. Reidhead responded there is not a strong argument for paying the $5.5 million now or later. The interest rate for paying it now is low and would be offset by earnings on the cash if paid later. He indicated that it would be nice to get this obligation taken care of in a timely manner.

Co-Chair Hillyard thanked DTS for the information and stated that no motion had been prepared on this issue.

7. TANF Funding Update

Mr. Stephen Jardine, Fiscal Analyst, LFA, explained that the Department of Workforce Services (DWS) would be reporting on the status of its excess Temporary Assistance for Needy Families (TANF) funds, referred to as TANF reserves. He provided some background information regarding the reporting of excess TANF reserves, legislative action, and DWS' plans to use the excess TANF funding.

Mr. Jardine pointed out that TANF is exempt from the federal funds review process. However, during the 2015 General Session, the Legislature passed S.B. 47, Temporary Assistance for Needy Families, which requires any one-time TANF request greater than $1 million to be subject to the federal funds review process in EAC. Mr. Jardine noted that in today's meeting, DWS would be talking about $28 million in proposed TANF spending that the EAC would be reviewing in the summer and the fall. The information is available in Table 6 on page 12 of the Issue Brief, “Workforce Services TANF Funds.”

Ms. Casey Cameron, Deputy Director, DWS, introduced Mr. Nathan Harrison, Finance Director, DWS, who gave an update on the uses and current status of the excess TANF reserve. She clarified that DWS would not be seeking spending authority at this time but would be sharing DWS’ initial thinking on the proposed spending of $28 million.

Mr. Harrison explained that during the 2014 General Session, DWS indicated that it had $107 million in excess TANF spending authority. DWS then updated its estimate of TANF reserves available at the end of the federal fiscal year 2014 to $122.5 million. The Legislature authorized the use of an additional $17.3 million one-time for 12 programs during the 2014 General Session and $1.6 million one-time for four programs during the 2015 General Session. DWS also reported additional one-time uses of $51.2 TANF reserve to the Social Services Appropriations Subcommittee in 2014.

Mr. Harrison stated that DWS is currently working with the Department of Human Services (DHS) and other state agencies to use an additional $28 million in one-time funding over three years for collaborative TANF efforts. Taking into account the proposed use of $28 million, the estimated remaining balance in the TANF reserve account would be approximately $24 million, which represents a three to four month reserve for emergencies or other issues.

Ms. Cameron and Mr. Harrison responded to committee questions regarding TANF funding and the uses of excess TANF reserves.

Ms. Cameron spoke briefly to the proposed expenditures in Table 6, “Proposed Collaborative TANF Uses,” that DWS would be bringing before EAC as part of the federal funds review process. She highlighted a number of projects with the DHS, the Department of Corrections, Department of Health, and Salt Lake County designed to assist families in keeping children and youth at home rather than in more expensive institutional care settings.

Sen. Escamilla asked if TANF funds could be used for after-school programs. Ms. Cameron said that she would follow up on her request.

Co-Chair Hillyard relinquished the chair to Co-Chair Sanpei.

President Niederhauser inquired about the maintenance of effort requirement and the implications on state funding for TANF funds. He also asked about reducing the flow of federal funds. Mr. Harrison explained that the maintenance of effort requirement allows the state to draw down federal funds. Once the requirement has been met, the state has access to all of the funds, which are available in perpetuity. Mr. Harrison said that the only way to reduce the reserve is to spend it for one of the TANF purposes.

Co-Chair Hillyard resumed the chair.

Sen. Mayne asked about coordination or possible duplication of effort with other DOC programs.
Ms. Cameron stated that the proposed pre-sentencing program is an entirely new program and does not duplicate DOC’s other funding.

Mr. Ball asked if the proposed three year system of care with DHS might create expectations for other human services. Ms. Cameron stated that this is a valid concern, but based on conversations with DHS, the department will be using the TANF funds for test work with families in certain geographic areas of the state. She did not know if the program would require ongoing funds in the future.

8. USOR Structural Imbalance

Co-Chair Hillyard offered his condolences to the family of Mark Openshaw, State School Board Member, who recently passed away.

Mr. Jardine provided some background information on the Utah State Office of Rehabilitation's (USOR) recent budget shortfall or structural imbalance of state funds. As a result of USOR's financial situation, 14,000 clients, currently on USOR's books, were at risk for losing their "paid client services." As a result, USOR had to set up a waiting list (called Order of Selection) for an estimated 10,000 new applicants with the uncertainty of not knowing when USOR would be able to serve that group because of ongoing budget issues. During the 2015 General Session, the Legislature appropriated $6.3 million one-time state funding for FY 2015.

Mr. Jardine stated that USOR has begun to use some of the budgeting tools outlined by Mr. Ball in his presentation in order to avoid financial problems in the future. He introduced Ms. Stacey Cummings, the USOR Interim Executive Director. Also available for comment were Mr. Scott Jones, Associate Superintendent, Utah State Office of Education; Mr. Dave Crandall, Chairman, Utah State Board of Education and Ms. Jennifer Johnson, Vice Chair, Utah State Board of Education.

Ms. Stacey Cummings, Interim Executive Director, USOR, reported on the $6.3 million supplemental appropriation the Legislature granted USOR in FY 2015, which enabled USOR to continue providing direct services. She referred to two pie charts which show actual expenditures as of June 9, 2015 and estimated expenditures through 6/30/2015. As of June 9, 2015, USOR had authorized and expended approximately $1.9 million. Ms. Cummings explained the reasons why USOR had not spent as much as they thought they would spend.

Ms. Cummings stated that USOR would like to carry over the unspent money for FY 2016 and use it for paid client services as per the previous agreement. USOR has prepared a new budget for FY 2016 which USOR will present to the Utah State Board of Education later this week. Ms. Cummings felt that USOR was in a position to ask for federal one-time money again this year, which will allow USOR to carry out its commitments to existing clients.

Rep. Sanpei remarked that when we talk about structural imbalance we are usually talking about using one-time money for ongoing expenses. He asked if USOR was anticipating any unexpected expenses or needs in the future. Ms. Cummings stated that USOR is currently looking for ways to manage expenses. The federal government allows USOR to shut off new clients but it must carry out the existing plans for employment. Eventually, existing clients will be closed out of the program and costs will go down, which may take a couple of years.

Mr. Scott Jones, Associate Superintendent, Utah State Office of Education, highlighted some of the measures that USOR is implementing to bring the budget back into balance: 1) following procedures to ask for $9 million in federal reallottment monies, and 2) meeting the requirements for the federally mandated program, pre-employment transition screening.

Ms. Cummings responded to committee questions regarding paid client services, the waiting list, meeting next year's expenses, delays in services and reassurances that USOR was moving forward with changes.

Rep. Briscoe spoke in support of the services USOR provides.

Co-Chair Hillyard expressed concern that the state has had to supplement USOR's budget on more than one occasion.

9. UDOT Capacity Projects and Maintenance Funding

Mr. Shane Marshall, Deputy Director, Utah Department of Transportation (UDOT), discussed UDOT's capacity projects and maintenance funding using a slide presentation. He explained the impact that H.B. 362, Transportation Infrastructure Funding, 2015 General Session, is having on UDOT's ability to address annual pavement and bridge needs and projected pavement conditions.

Mr. Marshall also talked about programmed capacity projects and eleven additional capacity projects made possible by H.B. 420, Revisions to Transportation Funding, 2015 General Session.

Finally, Mr. Marshall referred to the Transportation Investment Fund (TIF) bar graph which shows estimated revenue with a $100 million reduction and bond payments from 2015-2022.

Sen. Adams commented on the bar graph and made an observation about Utah's capacity in FY 2015 and FY 2016 if you were to remove $200 million from the TIF.

Mr. Ball pointed out if you allow the debt to be paid down and use cash to pay for construction, you are creating a rainy day fund without any policy change.

Mr. Marshall stated that UDOT is able to get to projects that it has not been able to get to before. With the cash available, it doesn't require bonding.

Sen. Okerlund asked about the status of the Federal Transportation Fund and how UDOT will be impacted if it goes broke. Mr. Marshall stated that the Federal Transportation Fund is planning to go broke next month. The majority of the money that UDOT receives from this fund goes into UDOT's preservation program.

10. Other Business/Adjourn

A written report from the Attorney General was placed behind Tab 10 in the binders. This is a required report on the office's efforts to enforce the Distribution of Bad Faith Patent Infringement Letters Act.

MOTION: Rep. Sanpei moved to adjourn. The motion passed unanimously with Sen. Davis, Sen. Knudson, President Niederhauser, Sen. Stevenson, Rep Dee, and Rep. Dunnigan absent for the vote.

Co-Chair Hillyard adjourned the meeting at 5:10 p.m.